

Rawlins Law Firm

Copyright Issues for Marching Bands

Whitepaper

R/L/F

by Keith C. Rawlins

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INTRODUCTION

In the past decade, copyright owners started heavily enforcing copyrights in the marching activity. As a result, marching bands must address copyright issues so as to avoid copyright liability, financial harm, and non-financial harm.

This Whitepaper discusses the context of copyrights in marching bands and common copyright issues encountered by marching bands. Additionally, this Whitepaper discusses the advantages of using the Rawlins Law Firm for your copyright needs.

THE CONTEXT OF COPYRIGHTS IN MARCHING BANDS

Marching bands frequently perform popular musical works in the stands during football games or at parades (other venues exist, of course). The popular music is typically arranged from another musical work; thus, copyright issues exist for these arranged musical performances. Permission to arrange is not always needed, though.

Marching band shows, like musicals and ballets, consist of both visual and aural elements. The visual element is the choreography, and the aural element is the music. Music for shows is primarily written in three ways: as an original musical work, as an arrangement of another musical work, or a combination of original and arranged musical works. Sound recordings are sometimes added to supplement the aural element of the show. Although copyright issues for the visual element can exist, copyrights in the choreography are almost never registered and enforced. Thus, copyright issues exist primarily for the musical element of a marching band show.

COMMON COPYRIGHT ISSUES

1. Whether the musical work is original or arranged music.
2. Whether any musical work to be arranged has been previously refused or denied.
3. Whether a sound recording is played.
4. Whether a DVD or CD of any performance will be made.
5. Whether the marching band has a policy about posting videos of performances on the Internet.
6. Whether time considerations for obtaining the appropriate permissions are made.

FIRST,

copyrights must be cleared regardless whether the show consists of original or arranged musical works. For original compositions, the marching band must have a contract with the composer detailing who owns the copyright in the original musical work. If the composer retains copyright in the musical work, then the marching band must have permission to perform the work. For compositions arranged from another musical work, permission to arrange and/or perform is required. Permissions to arrange and perform can be obtained by requesting permission from the copyright owner and paying the owner's permission fee.

SECOND,

it is important to remember that a copyright owner is not required to grant permission or a license; thus, checking whether a musical work has been previously denied or refused should be a first step in choosing the music program.

THIRD,

if a sound recording is played, such as a song on a CD or mp3 played while the marching band enters the field, then the marching band needs the right to perform this recording. Permission is usually obtained through the performing rights organizations ASCAP, BMI, and SESAC, or directly from the rights holder if they are not a member of such organizations.

FOURTH,

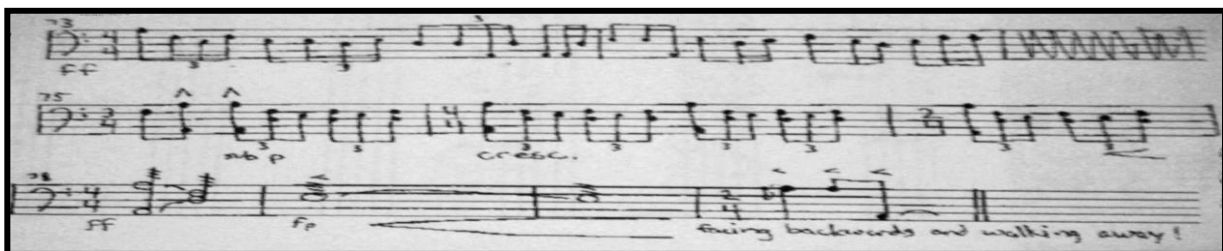
if a CD or DVD of any performance is to be made, then appropriate licenses are needed. If CDs of a performance are made, a mechanical license is needed for every musical work in the performance. If DVDs of a performance are made, a synchronization license is needed for every musical work in the performance. For marching bands making their own CDs or DVDs, the marching band must obtain mechanical licenses for CDs and synchronization rights for the DVDs by request and payment of a fee (typically a royalty). For marching bands competing in a competition where a CD or DVD is made, the marching band should check with the organizing entity of the competition whether the burden for these licenses is on the marching band. The obligation is actually with the party making the CD or DVD, but the financial portion of the obligation can be passed, though contract, to the marching band.

FIFTH,

a marching band should have a policy against posting videos to the Internet. Videos of performances are sometimes recorded by well-intentioned spectators, and sometimes these videos are uploaded to the Internet on websites such as www.youtube.com. However, making the music in the performance available as a video on the Internet, without appropriate permissions and licenses, subjects a marching band to non-financial and financial harm. Copyright owners can send embarrassing demand letters requiring removal of the videos from the Internet to avoid a lawsuit, and rumors spread quickly of those educators that receive these unfortunate letters. When faced with an angry copyright owner, the owner might insist on a monetary fine or bring a lawsuit for copyright infringement. A general policy educating people against posting videos to the Internet is recommended to avoid non-financial and financial harm.

SIXTH,

marching bands should be aware that it takes time to secure the appropriate permissions and rights. Permissions to arrange and perform can take several months to obtain, as can synchronization rights. Mechanical licenses have a shorter timeline, but this should not be taken for granted. Thus, marching bands should adopt a schedule that allows time to secure the appropriate permissions and rights.



THE RAWLINS LAW FIRM ADVANTAGE

ONE-STOP SHOP

Rawlins Law Firm can offer permissions, licensing, registration, enforcement, and litigation services.

FREE DEFENSE SERVICES

You are probably asking why you should choose Rawlins Law Firm for copyright services. The answer is simple:

RLF will provide defense services free of charge in the event defense services are needed for a license RLF procured. Keith Rawlins is licensed in federal courts, the courts of original jurisdiction for copyright infringement suits.

NOT JUST ANOTHER LAWYER—A COLLEAGUE

Keith C. Rawlins is founder of Rawlins Law Firm, which provides copyright services and is located in Houston, Texas. Keith is a musician and an attorney, and he has deep roots in Texas music education:

First, both his parents are retired Texas music educators, and they raised Keith in the Texas music education system.

Second, he attended Spring Oaks Middle School and Spring High School (Class of '97), both schools in the Houston area.

Third, Keith attended the University of Colorado at Boulder (B.A. Music '01) on a full music scholarship as a result of his excellent Texas music education.

Fourth, Keith's musical achievements include: Texas All-State Orchestra ('95-'97), first chair all-state percussionist (1997), Bands of America Champion (1993), Texas State Marching Champion (1994), DCI Champion (2000), DCI Drum Champion ('99-'00), DCI Timpani I&E Champion (1997).

CLIENT TESTIMONIALS

"This year we decided to do a public domain show. One of the songs has two versions, where one version is in public domain and another has been renewed. Keith made sure we arranged from the public domain version, which avoided licensing fees from publishers. Thank you, Keith!"

Mr. Chris Allen, The Woodlands H.S.

"We used Keith to license for the University of Houston Cougar Marching Band, and he was able to negotiate favorable terms to give credit to the marching band and arranger in the event the publisher ever reproduced the arrangement for sale. This is not common, and I was impressed."

Mr. John Alstrin, fmr. University of Houston
curr. L.D. Bell H.S.

"I arranged a marching show last season for one of my clients, and I recommended Keith as the licensing agent. Not only was he affordable, the process was completed much quicker than any other licensing

experience in which I have been involved. Keith is knowledgeable, professional, and easy to work with.”

Mr. Francis Chambers, Arranger

“We used Keith to clear licenses for our marching show and for the Rose Bowl Parade. For one piece, he was able to clear a license with an international copyright owner. We are happy with his work and will use Rawlins Law Firm again.”

Mrs. Dawn Martinez, Conroe H.S.

“As a composer and arranger, not having to worry about licensing or copyright clearance is invaluable. I have used Keith's services for several years for all my copyright needs, which has made my life much easier. If you need permission to use music for anything, he is the one to go to.”

Mr. Dwayne Rice, Composer and Arranger

"We have used Keith for many songs, and we will continue to use him. He has cleared licenses from all sorts of publishers for us, and he has also helped us comply with stringent arranging requirements of certain copyright owners."

Mr. Sam Woodfield, J.J. Pearce H.S.

CONTACT

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DISCLAIMER

Legal information discussed herein shall be considered for general educational purposes only and shall not be construed as legal advice. Rawlins Law Firm strives to achieve optimal results for each client; however, any results discussed in client testimonials should be considered only as examples. Free-of-charge defense services are subject to terms and conditions.



1997 DCI Individual & Ensemble Timpani Champion